

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

Phoenix Licensing, L.L.C., an Arizona limited liability company, and LPL Licensing, L.L.C., a Delaware limited liability company;

Plaintiffs,

vs.

Aetna Inc., a Pennsylvania corporation; Aetna Life Insurance Company, a Connecticut corporation; Commerce Bancshares, Inc., a Delaware corporation; Commerce Bank, N.A., a national banking association; Cullen/Frost Bankers Inc., a Texas corporation; Frost National Bank, a national banking association; HSBC Finance Corporation, a Delaware corporation; HSBC Bank USA, N.A., a national banking association; HSBC Bank Nevada, N.A., a national banking association; HSBC Card Services, Inc., a Delaware corporation; HSBC Technology & Services, Inc.; a Delaware corporation; HSBC Credit Center, Inc., a Delaware corporation; Liberty Mutual Insurance Company, a Massachusetts corporation; MetLife, Inc., a Delaware corporation; Metropolitan Life Insurance Company, a New York corporation; MetLife Bank N.A., a national banking association; Metropolitan Property and Casualty Insurance Company, a Rhode Island corporation; Mutual of Omaha Insurance Company, a Nebraska corporation; United of Omaha Life Insurance Company, a Nebraska corporation; United World Life Insurance Company, a Nebraska corporation; Sovereign Bank, a federally chartered savings bank, UnitedHealth Group, Inc., a Minnesota corporation; United HealthCare Insurance Company, a Connecticut corporation; Golden Rule Insurance Company, an Illinois corporation; United Healthcare Services, Inc., a Minnesota corporation; a PacifiCare Health Systems LLC, a Delaware corporation;

Defendants.

CASE NO. 2:11-cv-285

Jury Trial Demanded

**DECLARATION OF SEAN LUNER IN SUPPORT OF PLAINTIFFS LPL LICENSING,
L.L.C. AND PHOENIX LICENSING, L.L.C.'S
MOTION FOR LEAVE TO FILE FIRST AMENDED COMPLAINT**

I, Sean Luner, declare:

1. I am a partner at the law firm of Dovel & Luner, LLP, counsel for Plaintiffs LPL Licensing LLC and Phoenix Licensing LLC (collectively, "LPL") in the above-captioned matter. I have personal knowledge of matters referred to in this declaration and if called upon to do so, could and would testify to them.

2. Attached as Exhibit 1 is a true and correct copy of the Complaint filed in this action on June 13, 2011.

3. Attached as Exhibit 2 is a true and correct copy of the Amended Complaint for Declaratory Judgment filed in the District Court for the District of Columbia on October 11, 2011 in the case *Liberty Mutual Personal Insurance Company et al. v. Phoenix Licensing et al*, Civil Action No. 1:11-cv-01507-JDB (D.D.C.). The Amended Complaint in the District of Columbia action added Liberty Mutual Group, Inc. as a Plaintiff, and replaced the Original Complaint, which was filed on August 19, 2011 (over two months after LPL filed its Complaint in this District). LPL has filed a motion to dismiss Liberty's District of Columbia action.

4. Attached as Exhibit 3 is a true and correct copy of the template Docket Control Order in this District.

5. On November 8, 2011, I met with James Myers, counsel for both Liberty Mutual Group, Inc. and Liberty Mutual Insurance Company. I asked Mr. Myers if the Liberty parties would consent to LPL's amended Complaint. Mr. Myers would not provide consent.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed by Sean Luner of November 11, 2011:

A handwritten signature in blue ink, appearing to read "Sean Luner", with a long horizontal flourish extending to the right.